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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,243	06/23/2006	Masanori Nakamura	040302-0567	1683
23428 7590 12/26/2008 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
EXAMINER				
NGUYEN, CAM N				
ART UNIT		PAPER NUMBER		
1793				
MAIL DATE		DELIVERY MODE		
12/26/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/584,243

**Applicant(s)**

NAKAMURA ET AL.

**Examiner**

Cam N. Nguyen

**Art Unit**

1793

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09/08/08 (an election).  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.  
4a) Of the above claim(s) 1-9 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 10 is/are rejected.  
7) ☒ Claim(s) 10-14 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on originally filed is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-85/08)  
Paper No(s)/Mail Date 6/23/06, 8/28/06, 10/24/06, 12/14/06  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_



### DETAILED ACTION

#### Response to Election/Restrictions

1. Applicant's election of Group II, claims 10-14, in the reply filed on 09/08/08 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 1-9 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention(s), there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 09/08/08.

#### Claim Objections

3. Claims 10-14 are objected to because of the following informalities:
    - A. In claims 10-14, line 1, "A powdery catalyst production method" should be changed to recite --A method of producing a powder catalyst--.
    - B. In claim 10, line 4, "with" should be changed to --having--.
    - C. In claim 10, last line, "holding the noble metal particle by the complex part" should be changed to --supporting or depositing the noble metal particle on the complex part--.
    - D. In claim 11, line 3, "0.1nm to 100nm" should be changed to --0.1 nm to 100 nm--.
- Appropriate correction is required.

**Claim Rejections - 35 USC § 102(b)**

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Qin et al., hereinafter referred to as “Qin ‘239, (US Pat. 6,107,239).

Qin ‘239 discloses a method for manufacturing a catalyst for reducing the pollutant release containing the exhaust gas comprising: (a) forming a primary-core support carrier by coating a gamma-phase aluminum oxide with  $Y_2O_3$  and  $ZrO_2$ ; (b) coating over said support carrier an inner catalytic layer of active catalytic elements comprising La, Ce, Mn, Co, and Pd; and (c) coating over said inner catalytic layer with an outer catalytic layer of active catalytic elements comprising Y, La, Zr, Cu, Cr, V, and Pd, etc. (see col. 9- col. 10, claim 11).

There is no patentable distinction seen between the claimed method and that disclosed by the reference. Thus, the instant claim is anticipated by Qin ‘239.

**Allowable Subject Matter**

5. Claims 11-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Citations**

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. All references are cited for related art. See PTO-892 Form prepared.

**Conclusion**

7. Claims 1-14 are pending. Claims 1-9 are withdrawn due to nonelected (distinct) invention(s). Claim 10 is rejected. Claims 11-14 are objected. No claims are allowed.

**Contacts**

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Primary Examiner CAM N. NGUYEN, whose telephone number is 571-272-1357. The examiner can normally be reached on M-F, 9:00 AM - 6:30 PM, at alternative work site.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman, can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-272-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cam N. Nguyen/

Primary Examiner

Art Unit: 1793

/C. N. N./

December 21, 2008